

CHAPTER 635

ADMINISTRATION OF SMALL ESTATES

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635.1 When applicable.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with section 633.227, 633.228, or 633.290, the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve pursuant to section 633.63 or upon court order pursuant to section 633.64. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate probated pursuant to this chapter.

[C75, 77, 79, 81, §635.1; 81 Acts, ch 199, §1; 82 Acts, ch 1204, §1 – 4]

89 Acts, ch 25, §1; 2007 Acts, ch 134, §21, 28; 2008 Acts, ch 1119, §34

[SP] 2007 amendment to this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.2 Petition requirements.

The petition for administration of a small estate must contain the following:

1. The name, domicile, and date of death of the decedent.
2. The name and address of the surviving spouse, and the name and relationship of each beneficiary in a testate estate or known heirs in an intestate estate.
3. Whether the decedent died intestate or testate, and, if testate, the date the will was executed.
4. A statement that the probate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1 and the approximate amount of personal property and income for the purposes of setting a bond.

5. The name and address of the proposed personal representative.

[C75, 77, 79, 81, §635.2; 81 Acts, ch 199, §2, 3]

89 Acts, ch 25, §2; 2007 Acts, ch 134, §22, 28; 2008 Acts, ch 1119, §35

[SP] 2007 amendment to this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.3 through 635.6 Repealed by 2007 Acts, ch 134, § 26, 28.

2007 repeal of these sections applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.7 Report and inventory — value and conversion.

1. The personal representative is required to file the report and inventory for which provision is made in section 633.361, including all probate and nonprobate assets. This chapter does not exempt the personal representative from complying with the requirements of section 422.27, 450.22, 450.58, 633.480, or 633.481, and the administration of an estate whether converted to or from a small estate shall be considered one proceeding pursuant to section 633.330.

2. If the inventory and report shows the gross value of probate assets subject to the jurisdiction of this state which exceed the amount permitted a small estate under section 635.1, the estate shall be administered as provided in chapter 633.

3. If the inventory report in an estate probated pursuant to chapter 633 indicates the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount

permitted under section 635.1, the estate shall be administered as a small estate upon the filing of a statement by the personal representative that the estate is a small estate.

4. Other interested parties may convert proceedings from a small estate to a regular estate or from a regular estate to a small estate only upon good cause shown with approval from the court.

[C75, 77, 79, 81, §635.7; 81 Acts, ch 199, §8]

89 Acts, ch 25, §3; 2003 Acts, ch 151, §57; 2004 Acts, ch 1120, §8; 2007 Acts, ch 134, §23, 28 [SP] 2007 amendment to this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.8 Closing by sworn statement.

1. The personal representative shall file with the court a closing statement and proof of service thereof within a reasonable time from the date of issuance of the letters of appointment, and the closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:

a. To the best knowledge of the personal representative, the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1.

b. The estate has been fully administered and will be disbursed and distributed to persons entitled to the estate if no objection is filed to the closing statement after the requisite time period has expired as provided in subsection 2.

c. A description of the disbursement and distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest in the real estate and its disposition.

d. A copy of the closing statement and an opportunity to object and request a hearing has been sent by proper notice, as provided in section 633.40, to all interested parties.

e. The personal representative has complied with all statutory requirements pertaining to taxes, including whether federal estate tax was paid or a return was filed, whether Iowa inheritance tax was paid or a return was filed, whether the decedent's final personal income taxes were filed, whether fiduciary income tax returns for the estate were filed, and whether a lien continues to exist for any federal or state tax.

2. If no actions or proceedings involving the estate are pending in the court thirty days after notice of the closing statement is filed, the estate shall close and the personal representative shall be discharged after distribution upon the earlier of either of the following:

a. The filing of a statement of disbursement of assets with the clerk by the personal representative.

b. An additional thirty days have passed after notice of the closing statement is filed.

3. The closing statement shall include a statement as to the amount of fees to be paid for services rendered by the personal representative and the personal representative's attorney in administration of the estate. The fees for the personal representative shall not exceed three percent of the gross value of the probate assets of the estate, unless the personal representative itemizes the personal representative's services to the estate. The personal representative's attorney shall be paid reasonable fees as agreed to in writing by the personal representative at or before the time of filing the probate inventory or as approved by the court. All interested parties shall have the opportunity to object and request a hearing as to all fees reported in the closing statement.

4. If a closing statement is not filed within twelve months of the date of issuance of a letter of appointment, an interlocutory report shall be filed within such time period. Such report shall be provided to all interested parties at least once every six months until the closing statement has been filed unless excused by the court for good cause shown. The provisions of section 633.473 requiring final settlement within three years shall apply to an estate probated

pursuant to this chapter. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

[C75, 77, 79, 81, §635.8; 81 Acts, ch 199, §9]

89 Acts, ch 25, §4; 2007 Acts, ch 134, §24, 28; 2008 Acts, ch 1119, §36; 2009 Acts, ch 52, §11, 14

[SP] 2007 amendment to this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

[SP] 2009 amendment to subsection 1, unnumbered paragraph 1, applies to estates of decedents dying on or after July 1, 2009; 2009 Acts, ch 52, §14

635.9 and 635.10 Repealed by 2007 Acts, ch 134, § 26, 28.

2007 repeal of these sections applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.11 Statement in notice by clerk. Repealed by 2006 Acts, ch 1129, § 15.

635.12 Repealed by 2007 Acts, ch 134, § 26, 28.

[SP] 2007 repeal of this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.13 Notice — claims.

If a petition for administration of a small estate is granted, the notice as provided in section 633.237, and either sections 633.230 and 633.231 or sections 633.304 and 633.304A shall be given. Creditors having claims against the estate must file them with the clerk within the applicable time periods provided in such notices. The notice has the same force and effect as in chapter 633. Claimants of the estate shall be interested parties of the estate as long as the claims are pending in the estate.

[81 Acts, ch 199, §12]

84 Acts, ch 1080, §15; 89 Acts, ch 25, §6; 2007 Acts, ch 134, §25, 28

[SP] 2007 amendment to this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28

635.14 Repealed by 2007 Acts, ch 134, § 26, 28.

[SP] 2007 repeal of this section applies to estates of decedents dying on or after July 1, 2007; 2007 Acts, ch 134, §28